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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,805	03/06/2002		Michio Kadota	36856.649	6897
7.	590	01/24/2003			
KEATING & BENNETT LLP				EXAMINER	
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Fairfax, VA 2	2030			ART UNIT	PAPER NUMBER
				2834	

Please find below and/or attached an Office communication concerning this application or proceeding.





Application No. Applicant(s), 10/040805 Examiner M. Budi) **Group Art Unit** 2834

Office Action Summary -The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address-**Period for Reply** A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ______ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). **Status** Responsive to communication(s) filed on 3-6-0 3☐ This action is FINAL. ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 1 1; 453 O.G. 213. **Disposition of Claims** Claim(s) 15-17 is/are pending in the application. Of the above claim(s)_____ is/are withdrawn from consideration. Claim(s) is/are allowed.

Claim(s) is/are rejected. □ Claim(s) is/are objected to. □ Claim(s)_____ are subject to restriction or election requirement **Application Papers** ☐ The proposed drawing correction, filed on ________ is ☐ approved ☐ disapproved. ☐ The drawing(s) filed on ______ is/are objected to by the Examiner ☐ The specification is objected to by the Examiner. ☐ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119 (a)–(d) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d). ☐ All ☐ Some* None of the: Certified copies of the priority documents have been received. ☐ Certified copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)) *Certified copies not received: _ Attachment(s) ☐ Interview Summary, PTO-413 ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152 □ Other____ □ Notice of Draftsperson's Patent Drawing Review, PTO-948

Office Action Summary



Application/Control Number: 10/090,805

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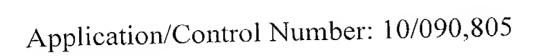
The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 15-17 are rejected under the judicially created doctrine of double patenting over claims 1-13 of U. S. Patent No. 6429569 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as



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follows: a surface acoustic wave device comprising a piezoelectric substrate, first and second inter digital transducers, a first edge and a coupler having a plurality of metal strips.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Further cited of interest are Beaudin, Nakao, Kadota, Meitlzlor and Elliott.

Budd/at

01/21/03

RIMARY EXAMINES